

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GIL GAMAO ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 6942. August 30, 1912*

Ponente: TRENT, J.

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On August 17, 1909, the appellants, Mauricio and Gil Gamao, were sentenced by the Honorable Albert E. McCabe, judge of the Court of First Instance of Occidental Negros, to life imprisonment for the crime of murder. They appealed.

From October, 1907, to May 15, 1909, Father Victor Baltanas was the parish priest of the Roman Catholic Church in the municipality of Escalante, Province of Occidental Negros. Baltanas was a person of peaceful disposition, devoting his attention to his religious duties, and taking no part in the political and factional troubles of his town. He had created no enemies by any personal action or omission on his part. About 8 o'clock on the night of May 15, 1909, Father Baltanas was in the house of Gregorio Pudanca, a friend of his. The house of Pudanca was situated a short distance diagonally across the plaza from the convent in which Baltanas lived. As was the custom, the church bell rang at 8 o'clock and the priest left the house of Pudanca and returned to the convent. He entered the main door to the lower portion of the convent, and while in the space between that door and the stairs leading to the upper portion of the building, someone struck him a blow with a bolo or sharp cutting instrument, which cut through his priestly cap and inflicted a wound on his head 8 inches in length, extending from the left eye to beyond the ear on the same side, the skull being fractured the entire length of the cut. After receiving this severe blow, the priest managed to make his way upstairs to his room. His clerk and a servant, who were in the convent at the time, gave the alarm by calling for the police. This alarm was given about fifteen or twenty minutes after the priest had left the house of Pudanca. Several persons went to the convent and remained with the priest until his death, which occurred as a direct result of said wound at about 5 o'clock on the next morning, May 16. The foregoing facts stand undisputed.

In 1904, litigation arose between the Roman Catholic Church and the municipality of Escalante relative to certain properties in that town. Gil Gamao, one of the appellants, then a member of the Aglipayan Church and a councilman, took a prominent part in having the municipality contest the claim of the Catholic Church to this property. He acquired a hatred toward this church, its priest, representatives, and the members of the friar orders. The litigation over the property in question came before this Supreme Court, where it was held that the property belonged to the Catholic Church. The judgment thus rendered was returned to the municipality of Escalante for execution, and on the forenoon of May 15, 1909, said judgment was read at a session of the municipal council. These facts are not seriously disputed.

The record before us clearly shows that the killing of Father Baltanas was brought about through hatred of and in a spirit of revenge against that which he represented in nationality and profession; that is, because he was a Spaniard, a member of a friar order, and a priest of the Roman Catholic Church.

On May 20, five days after the murder of Baltanas, the Constabulary officer detailed, to investigate the murder, finding that certain circumstances pointed to the appellant Mauricio Gamao as its author, but not having sufficient evidence, in his opinion, to justify charging Mauricio with its commission, caused his arrest on a charge of carrying concealed weapons. On May 24, Mauricio was bound over to the Court of First Instance on this charge. On the 26th, he was transferred from the municipal jail at Escalante to the custody of the Constabulary. On the next day, May 27, Mauricio made a formal statement implicating in the murder of the priest his uncle, Gil Gamao, and others of the defendants named in the information, but exculpating himself, which statement constituted the basis of a complaint, duly attested and sworn to by him, upon which his codefendants were arrested and remanded on the 31st of that month to the Court of First Instance for trial. After Mauricio had been transferred to Bacolod, a complaint was filed by the provincial fiscal before the justice of the peace of the capital, charging him also with the murder, upon which latter complaint he was bound over to answer the same charge that he had made against his codefendants.

The claim of the prosecution, as alleged in the information, is that the blow that caused the death of Father Baltanas was struck by the appellant Mauricio Gamao, and that in committing the deed he was instigated by his codefendants and was carrying out the directions given to him by them in pursuance of an agreement entered into by all of the defendants jointly at the house of Gil Gamao a few hours prior to the commission of the deed.

The defense in the court below was an alibi on the part of all the defendants save Gil Gamao, who admitted that he was at home on the afternoon in question, but claimed that he was confined to his bed by paralysis, and that no meeting was held as alleged by the prosecution.

The lower court found that the deed was committed by the defendant Mauricio Gamao upon the procurement of his uncle Gil. Also that five of their codefendants were present in the house of Gil Gamao on the afternoon of May 15th when Gil Gamao persuaded his nephew Mauricio to do the deed. All of the defendants except Gil and Mauricio Gamao, were acquitted on the ground that Gil Gamao was the only one who actually influenced Mauricio to murder the priest. The trial court was not convinced that the other five defendants, though present when the murder was agreed upon and consenting thereto, were factors in persuading the murderer to commit the crime.

It is strongly urged that the prosecution has failed to establish the guilt of the appellants with such a degree of certainty as to justify a conviction.

The authors of the murder of the priest were unknown from the 15th to the 27th of May, when, on this latter date, Mauricio Gamao made certain disclosures which caused the arrest of his codefendants. On that morning, the lieutenant of Constabulary received word from his guard that Mauricio wanted to make a statement. On ascertaining that his proposed statement had nothing to do with the charge under which he was then detained, but related to the murder of the priest, the Constabulary officer sent for the justice of the peace, Pedro Amante, with whom Mauricio said he desired a conference. Pending the arrival of the justice of the peace, Francisco Ferrer, a Spanish resident of Escalante, had an interview with Mauricio in which Mauricio told him that he did not want to suffer the fate of Pedro Git (an Escalante man hanged for an assassination committed by the procurement of others 3 Phil. Rep., 414), and that he wished to tell everything he knew. Ferrer testified:

"He told me that at a meeting he was offered money to kill the padre and that he would not accept it, but Jose Patpat did, and that they came to the convent about eight o'clock P. M. and that when the padre passed he (JosS) delivered a blow to the padre."

Upon his arrival at the convent, the justice of the peace asked Mauricio if he desired to make a statement to him and was answered in the affirmative. After having heard his statement, Mr. Amante requested Mauricio to repeat

it, which was done, the justice of the peace meanwhile transcribing it in the form of a complaint. The complaint being thus prepared, the justice of the peace read it to Mauricio in Visayan, whereupon the latter made oath to and signed the same with a cross attested by his thumbmark. These proceedings were had in the presence of the witnesses Lieutenant Lough of the Constabulary, Francisco Ferrer, and Vicente Olmedo, each of whom, as well as the justice of the peace, testified to the fact that the statement was voluntary and upon the initiative of Mauricio himself. Olmedo also testified that he heard Mauricio say to one of the soldiers who had charge of him, "If I am going to be taken alone to Bacolod, I might as well state everything." In this complaint, Mauricio implicated all of the seven defendants in the murder of the priest except himself and Rufino Pineda. In place of himself and Pineda he substituted the names of Domingo Jaime and Jose Ilongo (Jose Patpat). Two days later, May 29, the justice of the peace again examined Mauricio as to the facts sworn to by him on May 27th, and the latter ratified his previous statements.

At the trial in the Court of First Instance, Mauricio, on testifying in behalf of himself and his codefendants, sought to explain away his action in thus making the original complaint against his codefendants. He admits, however, the genuineness of his thumbmark attached to the complaint of May 27, but claims that the document to which he affixed his thumbmark was never read to him and that he supposed it was an order for his release.

Dolores Labida [Labadia], a widow, and who, as querida of Mauricio Gamao, resided with him, after having given an account of what she claims to have accidentally overheard at the house of Gil Gamao on the afternoon of May 15th, testified that upon the return of Mauricio to their house the next morning he admitted to her that the crime which she had heard Gil Gamao direct him to commit was already done, and in response to her question as to why he did it, answered: "What am I going to do? Manong [referring to his uncle Gil Gamao] ordered me to do it." This witness (Labida) [Labadia] further testified that after Mauricio's codefendants had been arrested, she visited Mauricio at the convent where he was confined under a Constabulary guard, as she had previously done at the municipal jail; and that he there said to her:

"If they make you testify to the truth, you testify to the whole truth, as I have done already; so, regarding the killing of the priest, two of us killed the priest, and Jose was my companion."

Also that Mauricio had stated to her that he had told the whole truth because he was the first one to be made to suffer, and he would tell the whole truth so that all the rest would suffer with him those who ordered him and directed him to commit the crime. This witness further says:

"Mauricio stated that the one who waited for the arrival of the priest at the stairway was Jose and he was the one who killed the priest, and that he (Mauricio) waited at the doorway at the side of the convent."

Again, this witness testified that after the accused Pineda had been arrested and placed in confinement with Mauricio and as her testimony was about to be taken on the charge sworn to by Mauricio, the latter asked her not to testify to what he had previously told her, and that Pineda then stated to her: "Yes, Dolores, do not testify to that. Would not you pity your husband if he should be placed in sorrow?"

Felicidad Mijares, a fifteen-year old daughter of Dolores Labida [Labadia] testified that between five and six o'clock on the afternoon of Saturday, May 15th, while her mother was absent, Mauricio came to the house and immediately proceeded to sharpen a long bolo which he was accustomed to carry when he went fishing; that after sharpening the bolo Mauricio left the house, taking the bolo with him; and that on leaving the house Mauricio wore gray knee trousers, a white undershirt, and a salacot (native hat). The bolo referred to by Felicidad Mijares was subsequently found in Mauricio's house and specifically identified.

Domingo Jaime was one of six buzos in the employ of Gil Gamao, who, between eight and nine o'clock on the night of the murder, transferred a load of corn from the seashore where they had landed from a boat, to the

camarin in the rear of Gil Gamao's house. This witness carried the last load of corn from the cart to the camarin. As he passed near the steps at the side of Gil Gamao's house he testified that he recognized the voice of captain Gil as the latter said: "What of you, Mauricio?" and then the voice of Mauricio in reply: "The thing is done. The padre is dead."

Juan Batolinao, a former employee of Gil Gamao, stated that he began to work for Gil in the year 1904 and left him in March, 1907, and that the cause of his leaving was that Gil Gamao had endeavored to induce him to kill the then priest of Escalante.

Carlos Cabus, brother-in-law of Gil Gamao, testified that in March, 1909, two months prior to the murder, Rufino Pineda approached him with the proposition that he (Cabus) contribute one hundred pesos to a fund to be used in hiring Mauricio to kill Father Baltanas, and that Pineda claimed that he made this proposition on behalf of Gil Gamao.

Jose Patpat testified that in the month of March, 1909, while he was employed by Gil Gamao, the latter offered him P50 if he would kill the priest; that the offer was made at the house of Gil Gamao while he was stopping there for the night on his return from a trip to Iloilo in company with Luis Garcia, Gil's son-in-law; and that during this private conversation between himself and Gil, the latter displayed his anger because the witness and Domingo Jayme had called upon the Roman Catholic priest to perform the burial ceremonies on the occasion of the death of Domingo's brother.

Miguel Gamao, nephew of Gil Gamao, and president of Escalante at the time of the murder, testified that:

"On a day in the month of May, I do not remember the date, I heard captain Gil say that an anarchistic society had been formed with the object of killing the friars. If the municipal authorities should take part in the prosecution of these anarchists they would also be assassinated."

Pedro Amante, the justice of the peace, testified that the suit of the municipality of Escalante against the church was begun in the year 1904 or 1905, upon the motion of Gil Gamao, who was then a member of the municipal council; that at the meeting of the council on May 15, 1909, the secretary (Pineda) read part of the decree of the Supreme Court, and then threw the document on the table and at once left the room; that shortly afterwards about 12 o'clock, he went to his house, which adjoined that of Gil Gamao, and from his window noticed Pineda in the kitchen of Gil's house; that on the way from the tribunal to his house he was preceded by Luis Garcia, son-in-law of Gil, who lived in Gil's house; that Luis entered Gil's house as he (the witness) entered his own; and that at about 3 o'clock that afternoon he saw Padre Sotero Cuenca, Aglipayan priest of Escalante, coming out of Gil Gamao's house.

With reference to the meeting which the prosecution claims took place in the house of Gil Gamao on the afternoon of May 15, Dolores Labida [Labadia] testified in substance as follows:

"About noon on Saturday, May 15, Mauricio came home and told me that he was going to town as Manong (Gil Gamao) had some work for him to do. Being out of corn, which we were accustomed to get from Manong, I insisted on accompanying Mauricio. When we arrived at captain Gil's house, I noticed that Pineda entered just before us. On entering the house from the side door of the kitchen, I saw the defendants in this case sitting at a long table in the kitchen. After I had spoken to Gil about getting one thousand ears of corn I went to the camarin, accompanied by a servant of Gil's named Soria, who counted out the corn for me. After the corn was placed on the ground in a separate heap, a helper of mine proceeded to transfer it in lots of two hundred ears to our house, and during the interval between each load I seated myself on the doorstep on the side of the house next to the camarin, from whence I could watch the corn. In this way I heard from time to time certain portions of conversation which was taking place between Gil Gamao and the six defendants sitting with him at the table, one of the six being Mauricio. I heard captain Gil say to the meeting that the way things were going they

would never escape from the Romans, on whose account the revolution had started; to which Pineda and the Aglipayan padre responded that whatever captain Gil desired to do they would conform to. I heard captain Gil propose that Mauricio make away with the priest. In consideration therefor, he offered to release Mauricio from all of his indebtedness and give him 'fifty more.' Upon hearing this proposition, Mauricio expressed his fear of undertaking such work, but Gil reassured him by saying: 'I am here to answer for you.'"

Apolinaria Bayhonan testified that on the afternoon of May 15th she administered massage to Gil Gamao and that both on entering and leaving the house she saw Mauricio Gamao there, together with the other five defendants.

Serapia Fuente stated that she saw three of the defendants at Gil's house that afternoon.

Asuncion Alfán testified that on the afternoon of Saturday, May 15th, the Aglipayan priest and Segundo Cañizares, the latter a brother-in-law of Gil Gamao, called at her house. Narciso Salgal, chief of police of Escalante and nephew of Gil Gamao, was there at the time, and after a brief private interview with the chief of police, the two left the house, going toward Gil's house.

As a witness in his own defense, Mauricio Gamao attempted to establish an alibi by claiming that he spent the afternoon of Saturday, May 15th, at the beach helping one Rufino Caporas repair fishnets, and that he did not get home that evening, but remained at the camarín all night. Rufino Caporas, on behalf of Mauricio, testified to the same effect, claiming that he slept in the camarín with Mauricio and that on awaking Sunday morning they went out fishing together. On cross-examination, Mauricio admitted that he had previously stated to the fiscal that he had gone to the house of one Carlos Cabus at four o'clock on Saturday afternoon and remained there until time to go out in the boat Sunday morning. Caporas also admitted on cross-examination that he was examined before the justice of the peace of Escalante, but denied that he there testified that he did not see Mauricio Gamao on the Saturday night of the murder. The justice of the peace, Mr. Amante, testified that he transcribed the questions and answers that were put to Rufino Caporas and that the latter stated before him that he spent the fifteenth of May at the beach, but that he did not see Mauricio Gamao there that day nor that night. The wife of Caporas testified that on the night of the murder she and her husband slept together in their house at the beach, and that no one else was there, and that she had since separated from her husband because he insisted upon her testifying as Gil Gamao wanted her to do. In surrebuttal, Rufino Caporas stated that his wife left him a week prior to the death of the priest. The prosecution then showed by the notes of the stenographer that this same witness had testified before the prosecuting attorney that his wife had not left him until after the priest had been murdered.

The evidence of the defense in support of the claim that no meeting was held in the house of Gil Gamao on the day of the murder and that Captain Gil himself was confined in his bed with paralysis consists of that of Mauricio Gamao and the following witnesses:

Inez Bais stated that she massaged Captain Gil on Saturday, the day of the murder, and that half of his body was paralyzed so that he was unable to leave his house. On cross-examination this witness denied that she had previously testified at Escalante that she had spent that Saturday in an outlying barrio and was not at Gil's house on that day. On rebuttal it was shown by the stenographer's notes of this witness' testimony that she did testify in the preliminary investigation conducted by Mr. Adams at Escalante, that she was not at the house of Gil on that Saturday.

Patricia Tenebroso, a 14-year old servant in the house of Gil Gamao, testified that he was unable to get out of his bed on the Saturday that the priest was killed. This witness admitted having testified at Escalante before the justice of the peace, but denied having there declared that she had spent the day in question away from home. The justice of the peace testified that this witness did swear before him that she had spent that Saturday away from Gil's house.

Francisco Flores, a tailor, whose shop was in the lower part of Gil's house, testified that he had spent the entire day in question cutting cloth for garments for a boy, and thus came to know that Gil was sick in his room all day. He claimed that he did this work upstairs because he had no table in his shop, but it was shown that there was a table downstairs in the shop of this witness at that time.

Pelagia Majinay testified that on the day of the murder Gil was so ill that he did not go out of his room all day, and that a few days after the arrest of Gil she met Ferrer at the house of Asuncion Alfán, where Ferrer tried to induce her by bribery and threats to testify that there had been a meeting in Gil's house; but Alfán stated that it was she who had the conversation with Majinay and that although Ferrer was present, he said nothing whatever to Majinay.

If the testimony for the witnesses for the prosecution is to be believed, Mauricio Gamao admitted his guilt to Dolores Labida [Labadia] on the morning after the murder occurred. He likewise admitted his guilt in the confessions made before the justice of the peace and other witnesses. If Mauricio were innocent, it is almost inconceivable that he should have involved himself and his uncle, upon whom he was dependent for maintenance, in a crime which, prior to his confessions, remained a mystery. If, on the other hand, Mauricio is guilty, the circumstances under which he was about to be removed from his home to Bacolod were such as would induce him to seek to free himself from the impending danger by implicating those who had involved him in this crime. He must have known that the real cause of his arrest and transfer to Bacolod was to procure his detention until evidence could be obtained against him for the murder of the priest. The fact that those against whom he made complaint refrained from furnishing the bond of one hundred pesos (the amount fixed by the justice of the peace for Mauricio's provisional liberty on the charge of carrying concealed weapons) that would have secured him his liberty, must have indicated to him that they intended to leave him to suffer the fate of Pedro Git, themselves seeking to avoid all suspicion by not interfering in his behalf. Mauricio went to the house of Gil and reported to the latter that: "The thing is done. The padre is dead."

The defense of Gil Gamao was directed almost solely to the proposition that his codefendants were not at his house on the day of the murder, and that on that day he himself was so ill that he did not leave his bed; consequently, that he did not conspire with his codefendants to induce Mauricio to kill the priest.

In summing up the case, the trial court, in determining the weight to be given to the testimony presented, after a very careful study and analysis of all the evidence, said:

"In weighing this testimony in the endeavor to sift the false from the true and to ascertain what is the fact, the court has sought to be careful in considering the surrounding circumstances, the probabilities and improbabilities, the intelligence or lack of intelligence and personal status of each witness, whether through enmity or for any other reason a witness might have a motive for giving false testimony against any of the accused or whether through a personal obligation, friendship, relationship, menial condition or dependency a witness should have a motive or might be induced to give false testimony in favor of any of them. And in trying to ascertain further, the credibility that should be given each witness, the court has endeavored to consider carefully prior statements made, and former testimony given by these witnesses upon this same matter and when the former statements and testimony given differs from that made by the same witness here, all of the surrounding circumstances of this case and preliminary to its commencement have been considered in the effort to ascertain whether the first was forced and false, and the last is true, or whether the last is false and the first was voluntary and true."

The record in this case, which is voluminous, shows that the trial judge gave the appellants every opportunity to present their defense. He allowed the defense great latitude in the cross-examination of witnesses. He had an opportunity to see the witnesses, hear them testify, and note their demeanor on the stand. He finally reached the

conclusion, after a thorough study of the whole case, that the testimony of record established beyond a reasonable doubt that it was the appellant Mauricio Gamao who murdered Father Victor Baltanas on the night of May 15, and that the said Mauricio was directly induced to commit this crime by the other appellant, Gil Gamao. We think these conclusions or findings of fact are fully sustained by the record.

The trial court classified the crime as that of assassination, there being present as to Mauricio Gamao the qualifying circumstance of alevosia, and as to Gil Gamao that of known premeditation. The court also found that there were not present in the commission of this crime any aggravating or extenuating circumstances, except the aggravating circumstance of known premeditation on the part of Mauricio Gamao.

Counsel for the appellants insists, among other things, that the court erred in finding that Gil Gamao was guilty as a principal by induction. Article 13 of the Penal Code provides:

"ART. 13. The following are considered as principals:

"1. Those who take a direct part in the commission of the act.

"2. Those who directly force or induce others to commit it."

Viada, in his Commentaries, in discussing this No. 2, says:

"But it must be borne in mind that these acts of inducement must not consist of simple counsel before the perpetration of the crime, nor of simple words at the moment of its execution. Such counsel or such words constitute without doubt wrongful acts and a reprehensible incentive before the moral law. But in order that they may be considered as a direct inducement according to the code it is necessary that he who gives such counsel or says such words must have a great control and a great influence upon the person who is to act and is necessary that this should be so direct, so efficacious, so powerful," as to make it a physical or moral coercion as powerful as the violence itself." (Vol. 1, p. 354.)

Mauricio Gamao, nephew of Gil Gamao, was a poor, ignorant fisherman, and more or less dependent upon his uncle for subsistence. On the other hand, Captain Gil Gamao was when this crime was committed, a man of great influence in Escalante. He had a great number of people working for him, one of whom was his nephew Mauricio. He was the local political leader of his party. One of his nephews was president of the town. He had two brothers-in-law in the municipal council. Of his nephews, one was chief of police and two others were members of the police force. He had acquired, as we have said, a bitter hatred toward the Roman Catholic Church and the Spanish friars and priests. He called a meeting in his own house on the afternoon of May 15th, where the question of murdering the priest was discussed. He was the prime mover in this meeting. He dominated all who were present. He selected his nephew Mauricio to commit the crime and directed him to do it. Mauricio, immediately after murdering the priest, returned to the house of his uncle Gil and reported the fact. The influence exercised by Gil Gamao over his nephew was so great and powerful that the latter, through fear, could not resist it. That Mauricio was directly induced to murder the priest by his uncle Gil we think there can be no question.

Counsel also insist that the court erred in classifying the crime as assassination. On the other hand, the Attorney-General insists that as to Mauricio Gamao, there were present, not only the qualifying circumstance of alevosia, but also the aggravating circumstances of known premeditation and hire or reward, and that as to Gil Gamao, there was present, aside from the qualifying circumstance of known premeditation, the aggravating circumstance of having induced the commission of this crime by hire or reward.

The deceased received the fatal blow while he was in the dark space between the door and the stairs leading to the upper portion of the convent. He was unable to see by whom the blow was struck. He had no opportunity to offer any resistance whatever. The murderer taking advantage of the darkness was lying in wait for his victim, thereby

employing means or methods in the execution of this crime which tended directly and specially to insure its execution without risk to himself, arising from the defense which the priest might make. These facts clearly establish the qualifying circumstance of alevosia in so far as Mauricio Gamao is concerned.

It is true that the circumstance of alevosia cannot be used either as a qualifying or modifying circumstance, as to Gil Gamao, for the reason that there is nothing in the record to show that Gil Gamao directed or induced Mauricio to adopt the means or methods actually used by the latter in accomplishing the murder. He only directed and induced Mauricio to commit the murder, leaving the details as to how it was to be accomplished to Mauricio. But as to Gil Gamao there was present the qualifying circumstance of known premeditation, which raises his offense to that of assassination, inasmuch as it has been shown that as far back as March, 1907, he attempted to induce Batolinao to kill the priest who was then at Escalante. In March, 1909, two months prior to the murder, Gil offered Jose Patpat fifty pesos to kill the deceased. Some days prior to, the murder, Miguel Gamao heard his uncle Gil say that an anarchistic society had been formed with the object of killing the friars. Again, Gil, on the afternoon of May 15th presided at the meeting held in his own house, where it was agreed that the priest should be killed, and he there deliberately selected his nephew to commit this crime, and directly induced him to do it. The determination to have the deceased murdered originated in his mind long before the crime was actually committed. This determination was constantly persisted in until he was successful. He had full opportunity for meditation and reflection, and ample time to allow his conscience to overcome the determination of his will had he so desired. All of these facts were certainly sufficient to justify the trial court in holding that the crime, in so far as Gil Gamao was concerned, was committed with known premeditation. (U. S. vs. Ricafor, 1 Phil. Rep., 173; U. S. vs. Gil, 13 Phil. Rep., 530.)

If there were present, as to Mauricio Gamao, one, two, or more aggravating circumstances, the penalty would be the same in this case, as, owing to his extreme ignorance, this court would be compelled to give him the benefits of article 11.

We are unable to agree with the Attorney-General in his contention that the aggravating circumstance that Gil Gamao forced or induced his nephew to murder the priest by hire or reward should be applied, for the reason that the record does not show beyond a reasonable doubt that Mauricio Gamao was forced or induced to commit this crime in this manner. The only testimony upon this point is: (1) That of the witness Ferrer, who stated that Mauricio told him that he had been offered money to kill the priest but that he had refused to accept it. (2) That of Carlos Cabus, wherein he stated that Rufino Pineda approached him on behalf of Gil Gamao and asked for a contribution of one hundred pesos to be used in hiring Mauricio to kill the deceased. (3) That of Jose Patpat who testified that Gil Gamao offered him fifty pesos to kill Baltanas. (4) That of Dolores Labida [Labadia], who testified that during the meeting held at Gil's house on May 15th she overheard Gil propose that Mauricio murder the priest, which is the only direct testimony upon this point. Labida here states, that Gil Gamao offered to release Mauricio of all his indebtedness and give him "fifty more" if he would kill the priest. Mauricio stated, according to the testimony of Ferrer, that it was true that he had been offered money to kill the padre but that he would not accept it. Accepting as true the testimony of Labida [Labadia] and the statement of Mauricio upon this point, it has been shown that Gil offered Mauricio a reward if he would dispose of the priest, but that Mauricio refused to accept it. The testimony of Cabus and Patpat shows that Gil had been attempting for a long time to hire someone to kill the priest. This strongly tends to establish the fact that Mauricio was actually offered a reward to commit this crime by his uncle, but Mauricio flatly denies that he received any money or other reward for committing the murder. This statement of Mauricio was made at the time he made his confessions, which were accepted by the court as true. If it was a fact that Mauricio Gamao owed his uncle a sum of money, the latter could have used these obligations as a club in forcing his nephew to commit the crime. For Mauricio, knowing his uncle's power and influence in the community, and his own insignificance, could well anticipate what would happen to one who

incurred his displeasure, and having received pecuniary assistance from his uncle, he could well expect a visitation of his displeasure in a more serious form than if he had never received such favors from his uncle. It would also appear that if he had received a reward to commit the crime, he would have admitted it, as such an admission would no doubt, in his opinion, have had great weight with the authorities in securing his release. After an examination of the whole record upon this point, we agree with the trial court that it has not been shown beyond a reasonable doubt that Gil Gamao actually hired Mauricio to kill the deceased by giving him money or promising to release him from all his indebtedness.

While this case was pending on appeal, a motion was made on the 18th of December, 1909, for a new trial. This motion complied with the provisions of the statute on the subject and was accompanied by various affidavits. Before the question of a new trial was passed upon by this court, counsel presented another motion on October 9, 1910, in which it was alleged that one Crispulo Pavilona had been sentenced to life imprisonment subsequent to the sentence which was rendered against the appellants in this case, for the same crime—that of killing Father Baltanas—and that the said Pavilona is now serving the sentence imposed upon him. In view of the allegations made in these two motions and the affidavits accompanying the first, this court, on December 17, 1910, granted a new trial as prayed for, and the record was returned to the court from whence it came for this purpose. Upon the second trial, which took place in Bacolod about the first of April, 1911, in the presence of the appellants and their counsel, the entire record in the former trial was introduced in due form, and the only further testimony presented was by the defense, who placed Miguel Gamao, the nephew of Gil Gamao, upon the stand, a witness for the prosecution in the former trial. In this last trial this witness testified that the testimony given by him on the first trial was under compulsion. The trial court again sentenced these two appellants to the same penalty, holding that the new testimony was not sufficient to cause a reasonable doubt in his mind as to the guilt of either Mauricio or Gil Gamao. The two condemned men again appealed, and it is now insisted that the guilt of both Crispulo Pavilona and the appellants in the case at bar is incompatible, for the reason that if Pavilona murdered the priest, Mauricio Gamao did not. While it has been suggested that the said Crispulo Pavilona was arrested, arraigned, pleaded guilty, and was sentenced to life imprisonment for the murder of Father Baltanas, yet, notwithstanding the fact that this court granted the appellants a new trial, they never introduced nor attempted to introduce the decision of the court in the case against Pavilona, nor did they attempt to make any showing upon this question whatsoever. On the other hand, it was suggested by means of an affidavit that Crispulo Pavilona stated that in killing the priest he operated with both these appellants and received from Gil Gamao money for committing this crime. These suggestions, however, not having been established nor even an attempt made to establish them on the second trial, we cannot take them into consideration.

For all of the foregoing reasons, the judgment condemning these appellants to life imprisonment, to indemnify the heirs of the deceased in the sum of one thousand pesos, and to the payment of the costs of the cause, is hereby affirmed, with costs of this instance against the appellants.

Arellano, C. J., Torres, Johnson, and Carson, JJ., concur.

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